

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ERIC MESI,

Plaintiff,

v.

STATE OF NEVADA FORECLOSURE
MEDIATION PROGRAM,

Defendant.

Case No. 3:14-cv-00350-MMD-WGC

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE
WILLIAM GL. COBB

Before the Court is the Report and Recommendation of United States Magistrate Judge William G. Cobb (dkt. no. 5) ("R&R") relating to plaintiff's application to proceed *in forma pauperis* (dkt. no. 1) and *pro se* initial filing titled: "Expunge Certificate and lien releast" which also references an ongoing bankruptcy case, 12-05075-btb (dkt. no. 1-1). Plaintiff had until September 11, 2014, to file an objection. No objection to the R&R has been filed.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue

1 that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985).
2 Indeed, the Ninth Circuit has recognized that a district court is not required to review a
3 magistrate judge’s report and recommendation where no objections have been filed. See
4 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard
5 of review employed by the district court when reviewing a report and recommendation to
6 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
7 1226 (D. Ariz. 2003) (reading the Ninth Circuit’s decision in *Reyna-Tapia* as adopting the
8 view that district courts are not required to review “any issue that is not the subject of an
9 objection.”). Thus, if there is no objection to a magistrate judge’s recommendation, then
10 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.
11 Supp. 2d at 1226 (accepting, without review, a magistrate judge’s recommendation to
12 which no objection was filed).

13 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
14 determine whether to adopt Magistrate Judge Cobb’s R&R. The Magistrate Judge
15 recommended granting Plaintiff’s application for *in forma pauperis* because he has
16 demonstrated his montly expenses exceed his income. The Magistrate Judge further
17 recommended that the Court dismiss the complaint because the relief he seeks —
18 expungement of a mediation certificate entered in connection with the State of Neavda
19 Mediation Foreclosure Program — is not available before this Court. Upon reviewing the
20 R&R and Plaintiff’s filings, this Court finds good cause to accept and adopt the
21 Magistrate Judge’s R&R in full.

22 It is therefore ordered, adjudged and decreed that the Report and
23 Recommendation of Magistrate Judge William G. Cobb (dkt. no. 5) be accepted and
24 adopted in its entirety.

25 It is ordered that plaintiff’s application to proceed *in form pauperis* (dkt. no. 1) is
26 granted; plaintiff shall not be required to pay an initial filing fee.

27 It is further ordered that dkt. no. 1-1 be sealed pursuant to Fed. R. Civ. P. 5.2,
28 because it contains a full social security number of a person who is not the plaintiff.

1 It is further ordered that this action be dismissed with prejudice.

2 The Clerk is directed to close this case.

3 DATED THIS 1st day of October 2014.

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6 MIRANDA M. DU
7 UNITED STATES DISTRICT JUDGE
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